

RESOLUTION NO. 2298

A RESOLUTION ACCEPTING A PERPETUAL, NONEXCLUSIVE UTILITY EASEMENT ALONG NW GRAHAM ROAD FROM THE PORT OF PORTLAND

THE TROUTDALE CITY COUNCIL FINDS AS FOLLOWS:

1. The Port of Portland is constructing improvements to NW Graham Road in partnership with the City of Troutdale
2. The Port of Portland is the owner of the real property identified by State ID #'s 1N3E24C-00500, 1N3E24C-00900, 1N3E25B-01300, 1N3E24-00401, 1N3E24C-01500, and 1N3E24C-01300
3. A utility easement from the Port of Portland to the City of Troutdale on the above referenced properties is necessary to complete and maintain the improvements
4. The Port has prepared and executed the necessary easement documents
5. The Port is not requesting or receiving monetary compensation from the City for the grant of this easement

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TROUTDALE

Section 1. The City of Troutdale accepts the Utility Easement from the Port of Portland, included herewith as Attachment A.

Section 2. This resolution is effective upon adoption

YEAS: 6

NAYS: 0

ABSTAINED: 0



Doug Daoust, Mayor

Date 8/26/15



Sarah Skroch, Deputy City Recorder

Adopted: August 25, 2015

After recording, return to:

City Recorder
City of Troutdale
104 SE Kibling Avenue
Troutdale, OR 97060

Multnomah County Official Records
R Weldon, Deputy Clerk

2015-124979



\$81.00

09/30/2015 08:33:03 AM

1R-EASEMT
\$40.00 \$11.00 \$20.00 \$10.00

Pgs=8 Stn=106 ATVMA

2015-133

UTILITY EASEMENT AGREEMENT

This Public Utility Easement Agreement ("AGREEMENT") is entered into by the PORT OF PORTLAND, a Port District of the State of Oregon, ("GRANTOR"), and the CITY OF TROUTDALE, an Oregon municipal corporation ("GRANTEE"), as of the date the GRANTOR signs the Certificate of Grantor.

RECITALS

A. GRANTOR owns the property described in this Agreement under paragraph 10 (the "Easement Area"). GRANTOR also owns other real property adjacent to and in the vicinity of the Easement Area.

B. GRANTEE is a municipal corporation in the State of Oregon which owns and operates public utilities.

C. On behalf of the GRANTEE, the Port of Portland will construct roadway, utilities, and related improvements, including slope, drainage, and water conveyance systems on Northwest Graham Road, and in so doing, will access and use the Easement Area.

D. The purpose of this Agreement is for GRANTOR to grant a road slope easement to GRANTEE for GRANTEE's access to and use of the Easement Area.

EASEMENT GRANTED

1. **Grant.** For consideration other than money, the receipt and sufficiency of which is acknowledged and accepted by the parties, GRANTOR hereby grants to GRANTEE, and GRANTEE hereby accepts from GRANTOR, a perpetual nonexclusive easement to construct, install, operate, maintain, repair, replace, and/or modify components of public utility systems including, but not solely limited to, water, sanitary sewer, transportation, and storm water systems at the location described on attached Exhibit "A" and shown and described on attached Exhibit "B".

2. **Limitations.** GRANTOR shall not construct, install, nor place any structure, pavement, or vegetation within the Easement Area except for shallow-root grasses and low-growing shrubs (but not trees), fences as permitted by applicable City regulations, and sidewalks or driveways. Any damages to GRANTEE's utilities caused by GRANTOR's construction, installation, or placement of shallow-root grasses, low-growing shrubs, fences, sidewalks, driveways, or any unauthorized structures, pavement or vegetation, within the Easement Area shall be repaired or replaced by GRANTOR, or by the GRANTEE at the GRANTOR's expense, as determined by the GRANTEE.

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3. **Use and Access.** GRANTOR shall allow GRANTEE unrestricted access to the Easement Area at all times to properly construct, install, operate, maintain, repair, replace, and/or modify its utilities. Any loss, damage, or destruction caused by GRANTEE to GRANTOR's property in accessing the Easement Area or in performing the aforementioned actions, whether or not such loss, damage or destruction was to GRANTOR's shallow-root grasses, low-growing shrubs, fences, sidewalks or driveways that are allowed in accordance with paragraph 2, shall be the responsibility of GRANTOR.

4. **Binding Effect, Run with the Land.** This Agreement shall run with the land as to all real property burdened and benefited, and shall inure to the benefit of GRANTOR, GRANTEE and their respective successors and assigns.

5. **Attorney Fees.** In the event legal action is commenced in connection with this Agreement, the prevailing party in such action shall be entitled to recover its reasonable attorney fees and costs incurred in the trial court and any appeal therefrom. The term "action" shall be deemed to include action commenced in the Bankruptcy Court of the United States and any other court of general or limited jurisdiction. The reference to "costs" includes, but is not limited to, deposition costs (discovery and otherwise), witness fees (expert and otherwise), out-of-pocket costs, title search and report expenses, survey costs, surety bonds and any other reasonable expenses.

6. **Severability.** If any portion of this Agreement shall be invalid or unenforceable to any extent, the validity of the remaining provisions shall not be affected thereby.

7. **Integration.** This Agreement constitutes the entire, final and complete agreement of the parties pertaining to this utility easement, and supersedes and replaces all other written and oral agreements heretofore made or existing by and between the parties or their representatives insofar as the Easement Area is concerned. Neither party shall be bound by any promises, representations or agreements except as are expressly set forth herein.

8. **Governing Law.** This Agreement shall be construed in accordance with and governed by the laws of the state of Oregon. The parties agree to venue in Multnomah County, state of Oregon.

9. **Nonwaiver.** Failure by either party at any time to require performance by the other party of any of the provisions in this Agreement shall in no way affect the party's rights under the Agreement to enforce the provisions in this Agreement, nor shall any waiver by a party of the breach of the provisions in this Agreement be held to be a waiver of any succeeding breach or a waiver of this nonwaiver clause.

CERTIFICATE OF GRANTOR

I, Bill Wyatt, the authorized representative of the owner of the property described above, hereby certify that the foregoing easement is granted to the City of Troutdale.

Dated this 24 day of June, 2015.

W
PORT OF PORTLAND
by: [Signature] ON BEHALF OF
Print Name: BILL WYATT
Title: EXECUTIVE DIRECTOR

STATE OF OREGON)
) ss.
COUNTY OF MULTNOMAH)

This instrument was acknowledged before me on June 24, 2015, by Curtis as Deputy Exec. Dir. of the Port of Portland. Robinhold



Elise L. Neibert
Notary Public for Oregon
My commission expires: June 4, 2016

CERTIFICATE OF GRANTEE

I, Sarah Stroch ^{Deputy} Recorder of the City of Troutdale, hereby certify that the foregoing easement was accepted by the City Council of the City of Troutdale on the 25th day of August, 2015 by Resolution No. 2298.
Dated this 10th day of September, 2015.

Sarah Stroch

Deputy City Recorder

APPROVED AS TO FORM:

[Signature]

By: _____
City Attorney

STATE OF OREGON)
) ss.
COUNT OF MULTNOMAH)

Personally appeared the above named City Recorder and acknowledged the foregoing instrument to be the voluntary act and deed of the CITY OF TROUTDALE.

Marion Berg

Notary Public for Oregon

My commission expires: 5-4, 2018



EXHIBIT A

PARCEL 1 SLOPE EASEMENT

A TRACT OF LAND SITUATED IN THE SOUTHWEST ONE-QUARTER OF SECTION 24 AND THE NORTHWEST ONE-QUARTER OF SECTION 25, TOWNSHIP 1 NORTH, RANGE 3 EAST, WILLAMETTE MERIDIAN, CITY OF TROUTDALE, MULTNOMAH COUNTY, OREGON LYING WITHIN THE TROUTDALE AIRPORT, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

COMMENCING AT A 4-1/4 INCH DIAMETER BRASS DISK IN CONCRETE AT THE NORTHWEST CORNER OF SAID SECTION 25; THENCE, ALONG A LINE BETWEEN SAID NORTHWEST CORNER OF SECTION 25 AND THE NORTHEAST CORNER OF THE D.F. BUXTON DLC No. 59, NORTH 89°44'45" EAST, 584.15 FEET TO A POINT OF NON-TANGENCY ON THE NORTHWESTERLY RIGHT OF WAY LINE OF NW GRAHAM ROAD AND THE TRUE POINT OF BEGINNING; THENCE, ALONG SAID RIGHT OF WAY LINE AND RUNNING 89.44 FEET ALONG THE ARC OF A 285.44-FOOT NON-TANGENT RADIUS CURVE TO THE LEFT, CONCAVE TO THE SOUTHEAST, THROUGH A CENTRAL ANGLE OF 17°57'12" (THE LONG CHORD BEARS SOUTH 23°49'24" WEST, 89.08 FEET) TO A POINT OF TANGENCY; THENCE, CONTINUING ALONG SAID RIGHT OF WAY LINE, SOUTH 14°50'48" WEST, 112.86 FEET; THENCE, DEPARTING SAID RIGHT OF WAY LINE, NORTH 75°09'12" WEST, 5.00 FEET; THENCE NORTH 14°50'48" EAST, 112.86 FEET TO A POINT OF CURVATURE; THENCE 112.68 FEET ALONG THE ARC OF A 290.44-FOOT RADIUS CURVE TO THE RIGHT, CONCAVE TO THE SOUTHEAST, THROUGH A CENTRAL ANGLE OF 22°13'41" (THE LONG CHORD BEARS NORTH 25°57'39" EAST, 111.97 FEET) TO A POINT OF NON-TANGENCY; THENCE, ALONG A RADIAL LINE, SOUTH 52°55'31" EAST, 5.00 FEET TO THE NORTHWESTERLY RIGHT OF WAY LINE OF NW GRAHAM ROAD AND A POINT OF NON-TANGENCY; THENCE, ALONG SAID NORTHWESTERLY RIGHT OF WAY LINE AND RUNNING 21.30 FEET ALONG THE ARC OF A 285.44-FOOT RADIUS CURVE TO THE LEFT, CONCAVE TO THE SOUTHEAST, THROUGH A CENTRAL ANGLE OF 04°16'29" (THE LONG CHORD BEARS SOUTH 34°56'15" WEST, 21.29 FEET) TO THE TRUE POINT OF BEGINNING, CONTAINING 459 SQUARE FEET MORE OR LESS.

THE BEARINGS IN THIS DESCRIPTION ARE BASED UPON PARTITION PLAT No. 2012-46, MULTNOMAH COUNTY PLAT RECORDS.

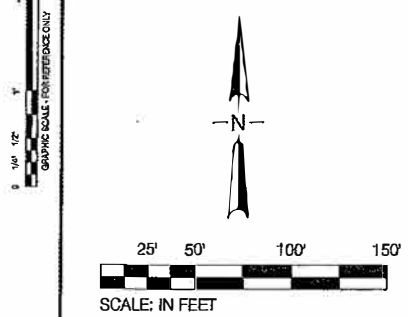
PARCEL 2 SLOPE EASEMENT

A TRACT OF LAND SITUATED IN THE SOUTHWEST ONE-QUARTER OF SECTION 24, TOWNSHIP 1 NORTH, RANGE 3 EAST, WILLAMETTE MERIDIAN, CITY OF TROUTDALE, MULTNOMAH COUNTY, OREGON, LYING WITHIN THOSE TRACTS OF LAND OWNED BY THE PORT OF PORTLAND, RECORDED OCTOBER 23, 1963 IN DEED BOOK 2192, PAGE 268 AND RECORDED AUGUST 11, 1982 IN DEED BOOK 1611, PAGE 893, MULTNOMAH COUNTY DEED RECORDS AND TRACT "A", "TROUTDALE REYNOLDS INDUSTRIAL PARK", RECORDED MAY 3, 2011 IN BOOK 1302, PAGES 46-58, MULTNOMAH COUNTY PLAT RECORDS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

PUBLIC UTILITY EASEMENT

BEGINNING AT THE SOUTHWEST CORNER OF PARCEL 1, PARTITION PLAT No. 1990-23, MULTNOMAH COUNTY PLAT RECORDS; THENCE, ALONG THE SOUTH LINE OF SAID PARCEL 1, NORTH 89°45'52" EAST, 4.00 FEET; THENCE, DEPARTING SAID SOUTH LINE, SOUTH 24°12'11" EAST, 7.60 FEET; THENCE SOUTH 05°24'36" WEST, 40.10 FEET; THENCE SOUTH 12°49'21" WEST, 83.16 FEET; THENCE SOUTH 01°00'02" WEST, 60.16 FEET; THENCE NORTH 79°40'32" WEST, 14.90 FEET TO THE EAST RIGHT OF WAY LINE OF NW GRAHAM ROAD; THENCE, ALONG SAID EAST RIGHT OF WAY LINE, NORTH 10°19'28" EAST, 96.10 FEET TO A POINT OF CURVATURE; THENCE 141.37 FEET ALONG THE ARC OF A 830.00-FOOT RADIUS CURVE TO THE LEFT, CONCAVE TO THE WEST, THROUGH A CENTRAL ANGLE OF 09°45'31" (THE LONG CHORD BEARS NORTH 05°26'42" EAST, 141.20 FEET) TO A POINT OF CUSP ON THE WEST LINE OF SAID PARCEL 1, PARTITION PLAT No. 1990-23; THENCE, ALONG THE WEST LINE OF SAID PARCEL 1, SOUTH 00°14'08" EAST, 49.70 FEET TO THE TRUE POINT OF BEGINNING, CONTAINING 1,673 SQUARE FEET MORE OR LESS.

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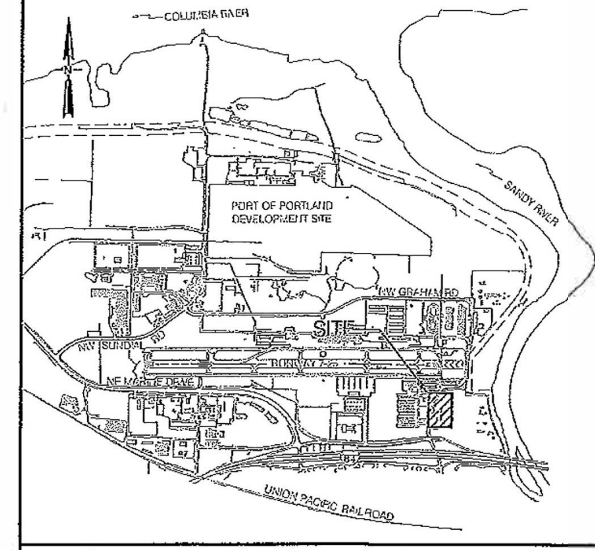
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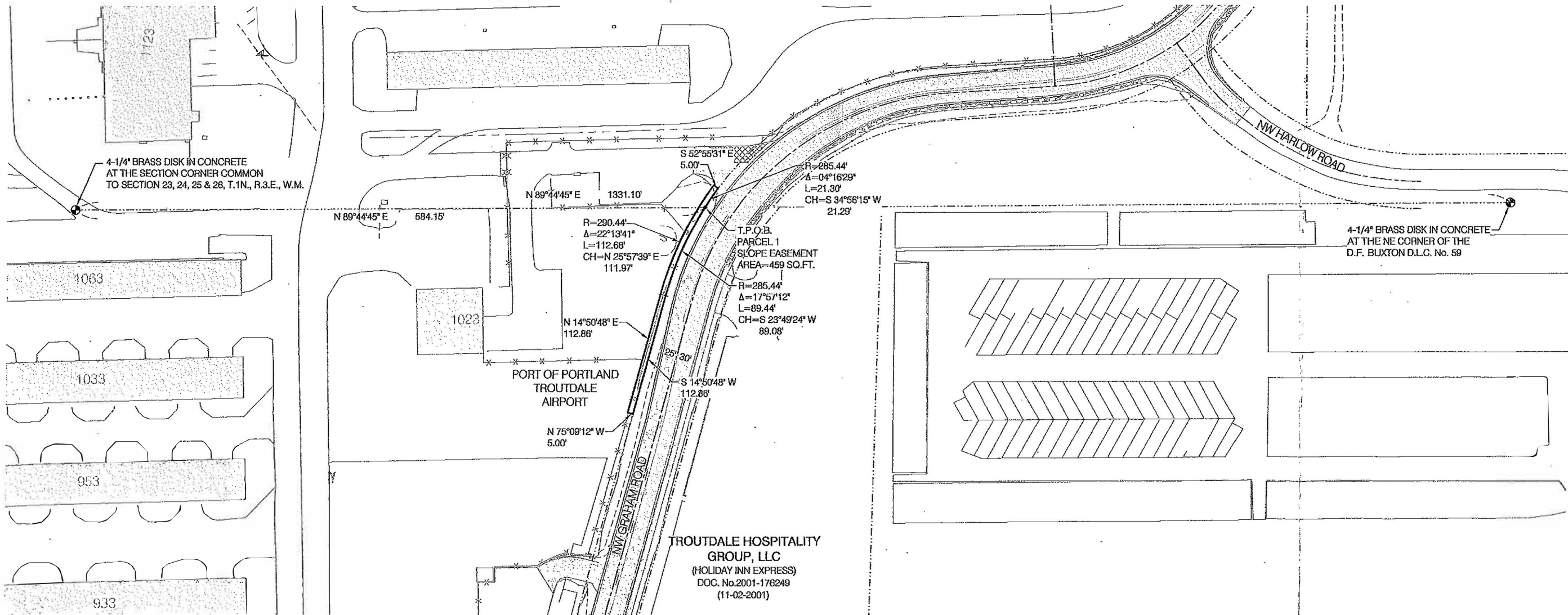
NOTES:

THE PURPOSE OF THIS DRAWING IS TO SHOW THE LIMITS OF THE SLOPE EASEMENT FOR THE NW GRAHAM ROAD IMPROVEMENT PROJECT SLATED FOR CONSTRUCTION IN 2015-2017.

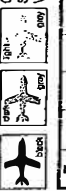
BACKGROUND IS FOR INFORMATIONAL PURPOSES ONLY.



VICINITY MAP
N.T.S.



CAN YOU SEE THE AIRPLANES? THE ADJACENT SAMPLES SETTINGS FOR VIEWING AND PRINTING DRAWING CONTAINED IN THIS FILE. THIS GUIDANCE IS PROVIDED FOR REFERENCE ONLY.



NO.	DATE	BY	REVISIONS	APP'D	CHK'D	NO.	DATE	BY	REVISIONS	APP'D	CHK'D



PORT OF PORTLAND
 PORTLAND, OREGON
 20130025
 DESCRIPTION
 10184
 PROJECT NUMBER

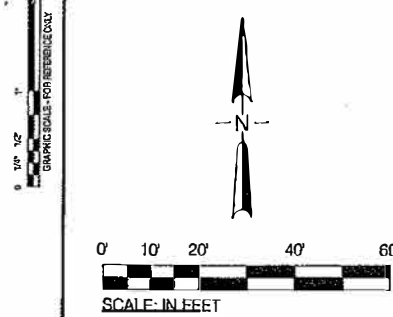
REGISTERED PROFESSIONAL LAND SURVEYOR

 OREGON
 JULY 29, 1995
 CHRISTOPHER M. VANDERWERF
 2719
 SIGNED: 03-15-2016
 EXP: 6/30/2016

DESIGNED BY: C. VANDERWERF
 DRAWN BY: P. SHIELDS
 CHECKED BY: R. ALDERSERAES
 DATE: MAR. 2016
 SCALE: 1" = 50'

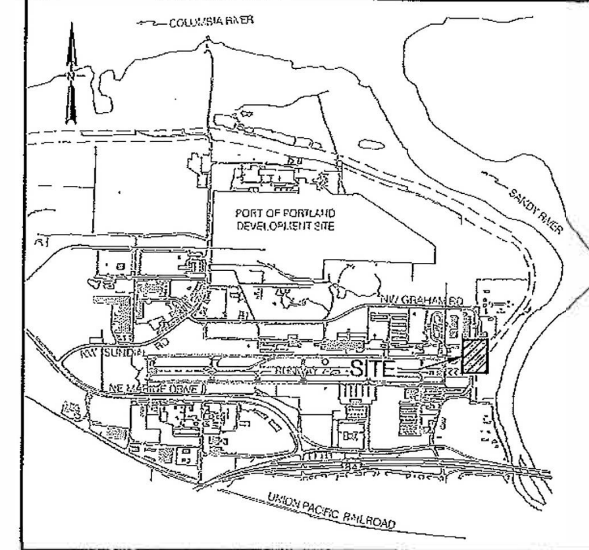
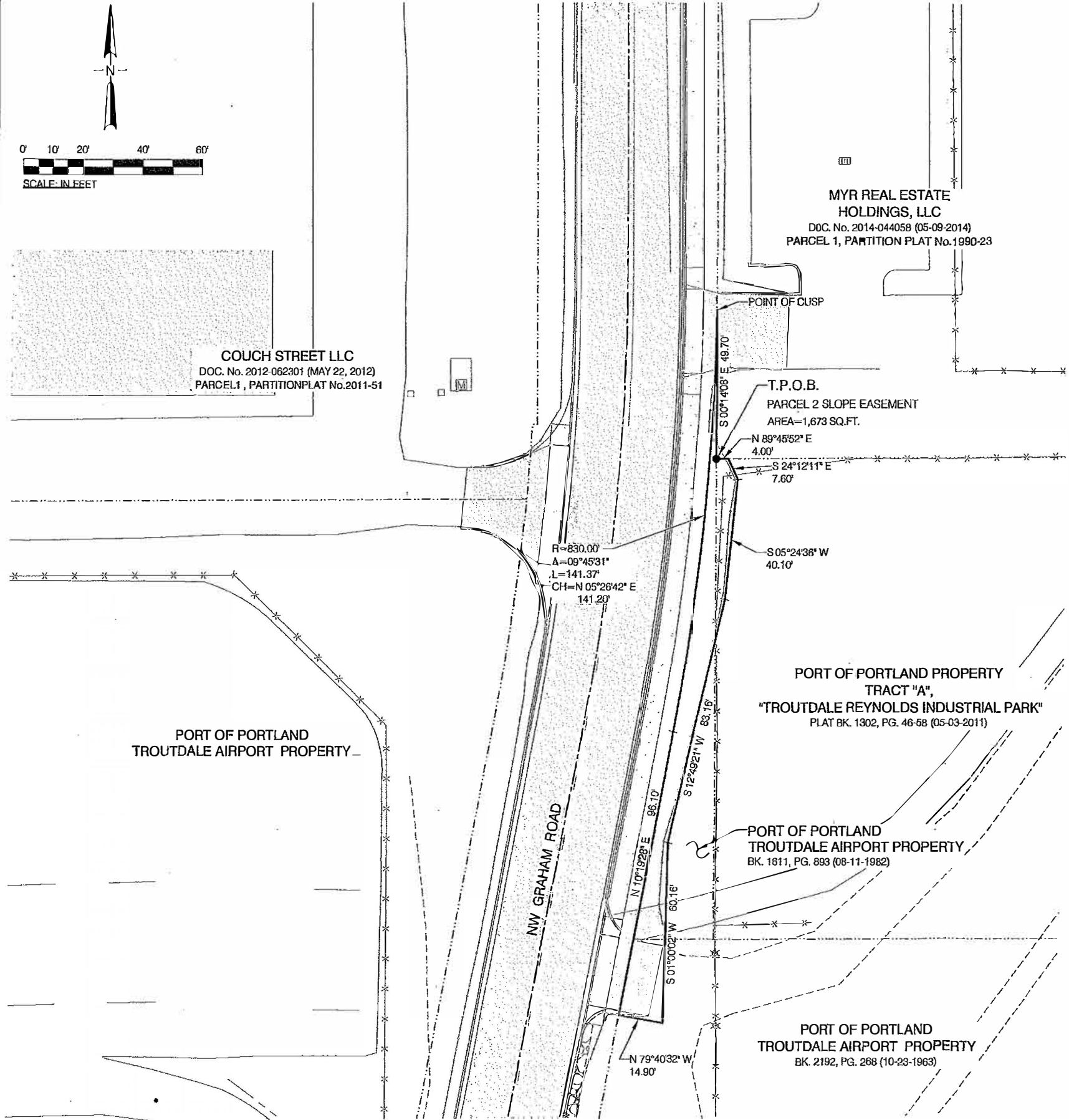
TROUTDALE REYNOLDS INDUSTRIAL PARK
 PHASE TWO PUBLIC IMPROVEMENTS - GRAHAM ROAD
 SLOPE EASEMENT
 TROUTDALE AIRPORT PROPERTY

SUBMITTED BY: RYAN PARKER
 TYPE: EP
 DRAWING NO.: TRIP 2015-8
 SHEET NO.: 1/2
 DI. SC. SHT. NO.: SW-1



COUCH STREET LLC
 DOC. No. 2012 062301 (MAY 22, 2012)
 PARCEL 1, PARTITION PLAT No. 2011-51

MYR REAL ESTATE
 HOLDINGS, LLC
 DOC. No. 2014-044058 (05-09-2014)
 PARCEL 1, PARTITION PLAT No. 1990-23



VICINITY MAP
 N.T.S.

NOTES:
 THE PURPOSE OF THIS DRAWING IS TO SHOW THE LIMITS OF THE SLOPE EASEMENT FOR THE NW GRAHAM ROAD IMPROVEMENT PROJECT SCHEDULED FOR CONSTRUCTION IN 2015-2017.
 BACKGROUND IS FOR INFORMATIONAL PURPOSES ONLY.

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CAN YOU SEE THE AIRPLANES? THE ADJACENT SAMPLES SHOW THREE DIFFERENT LEVELS OF SHADING. SETTINGS FOR VIEWING AND PRINTING DRAWING CONTENT ARE OPTIMIZED WHEN ALL THREE PLANES ARE VISIBLE. THIS GUIDANCE IS PROVIDED FOR REFERENCE ONLY.

NO.	DATE	BY	REVISIONS	APPROV	CHKD	NO.	DATE	BY	REVISIONS	APPROV	CHKD



PORT OF PORTLAND
 PORTLAND, OREGON

20130025
 DESIGN NUMBER

101844
 PROJECT NUMBER

REGISTERED PROFESSIONAL LAND SURVEYOR

DESIGNED BY: C. VANDERWERF

DRAWN BY: P. SHIELDS

CHECKED BY: R. ALDERSERBAES

DATE: MAR. 2015

SCALE: 1" = 20'

SIGNED: Christopher M. Vanderwerf
 JULY 25, 1996
 CHRISTOPHER M. VANDERWERF
 2719
 EXP: 6/30/2016

TROUTDALE REYNOLDS INDUSTRIAL PARK

PHASE TWO PUBLIC IMPROVEMENTS - GRAHAM ROAD SLOPE EASEMENT TROUTDALE AIRPORT PROPERTY

SUBMITTED BY: RYAN PARKER
 TRIP DEVELOPMENT MANAGER

TYPE: EP

DRAWING NO.: TRIP 2015-8

SHEET NO.: 2/2

DISC. SHT. NO.: SU-2